

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2006

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THE HONOURABLE MR. JUSTICE K.MOHAN RAM

C.M.A.Nos.1998 & 1999 of 1999

C.M.A.1998 OF 1999

1. Nirmal Kumar
2. The Oriental Insurance Co. Ltd.,
B.Esplanade, Madras 600 018. .. Appellants in both CMAs/
4th & 5th Respondents

-Vs-

Usha Rani ..Respondent 1 in CMA 1998/99/Petitioner
Venkatachalam ..Respondent 1 in CMA 1999/99/Petitioner
Durairaj ..Respondent 2 in both CMAs/1st Respondent

Managing Director
Anna Transport Corporation,
Salem.

Loganathan .. Respondents 3&4 in both CMAs/
2nd & 3rd Respondents

APPEALS against order passed by the learned Subordinate Judge, Vellore,
Motor Accidents Claims Tribunal, dated 30.03.1999 made in M.COP.Nos.416
and 417 of 1994 respectively. सत्यमेव जयते

For Appellants : Mr.N.Vijayaraghavan
For Respondents : V.K.Rajagopalan R1
R2 to R4 given up

J U D G E M E N T

The fourth and fifth respondents, viz:- the insured and the insurer of the vehicle involved in the accident have filed the appeals against the award dated 30.03.1999 passed in MCOP Nos.416 and 417 of 1994 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) Vellore.

2. The learned counsel for the appellants confined his submission

only on the question of quantum of compensation awarded. The Tribunal, on the basis of the evidence of the respective claimants in the OPs and on the basis of the wound certificates Ex.P2 and Ex.P3 has awarded the compensation of Rs.40,000/- each, which was also the claim made by the claimants. The learned counsel for the appellants submits that the injuries sustained by both the claimants are only simple injuries and the Doctor who treated them has not been examined and admittedly no disability has been caused to the claimants and considering the simple injuries sustained by the claimants, the sum of Rs.40,000/- each awarded as compensation by the Tribunal is on the high side.

3. Per contra, learned counsel for the respective respondents claimants submitted that the claimant in OP.No.416 of 1994 had to wear spectacles as her eye sight was affected due to the injuries sustained in the accident. Learned counsel further submitted that the quantum of compensation awarded by the Tribunal is very reasonable and this Court may not interfere with the award.

4. It is seen from the order of the Tribunal that the claimant in OP No.416 of 1994 had sustained injuries on her right eye and upper part of the head. The claimant, as P.W.1 has deposed that because of the injury sustained by her, she was unable to attend to her household work and she gets head ache and she had to wear spectacles. Ex.P.2 is the wound certificate relating to her. It is also seen from the order of the Tribunal that the claimant in OP.No.417 of 1994 has deposed as P.W.2 that he had sustained injuries on his forehead, neck and back and Ex.P.3 is the wound certificate. The Tribunal has also pointed out that both the claimants have not examined the Doctor to establish the nature of the injuries sustained by them. But, however, the Tribunal has awarded the lumpsum compensation of Rs.40,000/- each to the claimants. When there is no evidence to show that the claimants suffered any disability and the injuries sustained by them were not grievous, the Tribunal ought not to have granted the sum of Rs.40,000/- each as compensation. It is not the case of the claimant in OP No.416 of 1994 that due to the injuries sustained by her, any disfiguration has been caused to her face.

5. In such circumstances, both the claimants are be entitled to claim compensation only towards the pain and suffering alone and towards medical expenses, if any. Admittedly, in these cases, there is no evidence to show that the claimants spent any amount towards medical expenses. Therefore, in the absence of proper medical evidence, the Tribunal has erred in awarding compensation to the claimants. In the considered view of this Court and as fairly submitted by the counsel for the appellants, a sum of Rs.20,000/- will be the reasonable compensation payable to each of the claimants.

6. Accordingly, the award of the Tribunal is modified and the claimants in O.P.Nos.416 and 417 of 1994 are entitled to the

compensation of Rs.20,000/- each only with interest as awarded by the Tribunal.

7. It is represented by the counsel on either side that 50% of the award amount granted by the Tribunal with accrued interest thereon has been withdrawn by the claimants. In view of the order passed in the above appeals, the remaining amount lying to the credit of M.C.O.P.Nos.416 and 417 of 1994 on the file of the Subordinate Judge, Vellore, shall be withdrawn by the second appellant.

8. With the above modification, the appeals are partly allowed. However, there will be no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Subordinate Judge,
Motor Accidents Claim Tribunal
Vellore.

2.The Record Keeper,
VR Section, High Court, Madras.

+2ccs to Mr.N.Vijayaraghavan, Advocate Sr 40827 & 40825

NG (CO)
km/8.11.

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